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UNITED STATES BANKRUPTCY COURT
CENTRAL DISTRICT OF CALIFORNIA
LOS ANGELES DIVISION

In re
LESLIE KLEIN,
Debtor and Debtor in Possession,

Case No. 2:23-bk-10990-SK

Hon. Sandra Klein

Chapter 11

**OPPOSITION TO DEBTOR'S MOTION
IN INDIVIDUAL CASE FOR ORDER
AUTHORIZING USE OF CASH
COLLATERAL (161 N. POINSETTIA
PLACE, LOS ANGELES, CA 90036)**

Hearing: Motion for Use of Cash Collateral

Date: June 28, 2023

Time: 9:00am

Place: 255 E. Temple Street, Los Angeles, CA
Courtroom 1575

**TO THE HONORABLE SANDRA R. KLEIN, UNITED STATES BANKRUPTCY
JUDGE, THE DEBTOR AND HIS COUNSEL, MOVANTS AND THEIR COUNSEL,
AND ALL OTHER INTERESTED PARTIES:**

Creditors Robert & Esther Mermelstein ("Mermelstein") and David Berger ("Berger")
hereby submit this Opposition to Debtor's Motion in Individual Chapter 11 Case for Order
Authorizing Use of Cash Collateral ("Motion") filed by Leslie Klein ("Debtor").

On May 16, 2023, the Debtor filed the Motion seeking authorization to use cash collateral
generated from rents or accounts receivable relating to the Property, the Martel Property and the
Highland Property. In her Motion, the Debtor alleges that the Property generates \$3,000 in
monthly rents. However, the Debtor failed to attach any lease agreements to her Motion.

1 On April 24, 2023, the Vago's filed a Motion to Dismiss the Debtor's Chapter 11
2 Bankruptcy ("Motion to Dismiss"), asserting alleged fraud by the Debtor and the misuse and
3 abuse of the Bankruptcy. After hearing and argument on the Vago's Motion to Dismiss, on
4 May 17, 2023, the Court entered an Order directing the United States Trustee to appoint a
5 Chapter 11 Trustee to the Bankruptcy.

6 On May 24, 2023, the Court entered an Order appointing Bradley D. Sharp as the Chapter
7 11 Trustee.¹³ By operation of law, the Chapter 11 Trustee is now administering of the
8 Bankruptcy estate.

9 The Debtor is no longer the "debtor in possession" as the Court appointed Bradley D.
10 Sharp as the Chapter 11 Trustee under 11 USC § 1104 [Doc-142]. As a result, the Chapter 11
11 Trustee Brad Sharp now has all of the rights and properties of the Debtor, including the duties
12 and obligations set forth in 11 U.S.C. Section 1107 of the Bankruptcy Code. *United States v. One*
13 *2009 Maserati Granturismo*, 2016 U.S. Dist. LEXIS 119383, 2016 WL 4502457, at *1 (C.D.
14 Cal. June 6, 2016). As the Debtor does not have authority to administer the bankruptcy estate,
15 including the Property and the cash collateral generated from it, the Motion is moot and should
16 be denied. Accordingly, the Motion should be denied.

17
18 DATED: June 15, 2023

LAW OFFICE OF BARUCH C. COHEN
A Professional Law Corporation

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20 By /S/ Baruch C. Cohen
Baruch C. Cohen, Esq.
21 *Attorney For Creditors Robert & Esther*
Mermelstein, and David Berger
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PROOF OF SERVICE OF DOCUMENT

I am over the age of 18 and not a party to this bankruptcy case or adversary proceeding. My business address is:

4929 Wilshire Boulevard, Suite 940, Los Angeles, California 90010.

A true and correct copy of the foregoing document entitled: **OPPOSITION TO DEBTOR'S MOTION IN INDIVIDUAL CASE FOR ORDER AUTHORIZING USE OF CASH COLLATERAL (161 N. POINSETTIA PLACE, LOS ANGELES, CA 90036)** will be served or was served **(a)** on the judge in chambers in the form and manner required by LBR 5005-2(d); and **(b)** in the manner stated below:

1. TO BE SERVED BY THE COURT VIA NOTICE OF ELECTRONIC FILING (NEF): Pursuant to controlling General Orders and LBR, the foregoing document will be served by the court via NEF and hyperlink to the document. On *(date)* 6/15/2023, I checked the CM/ECF docket for this bankruptcy case or adversary proceeding and determined that the following persons are on the Electronic Mail Notice List to receive NEF transmission at the email addresses stated below:

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☐ Service information continued on attached page

2. SERVED BY UNITED STATES MAIL: On 6/15/2023, I served the following persons and/or entities at the last known addresses in this bankruptcy case or adversary proceeding by placing a true and correct copy thereof in a sealed envelope in the United States mail, first class, postage prepaid, and addressed as follows. Listing the judge here constitutes a declaration that mailing to the judge will be completed no later than 24 hours after the document is filed.

Eric J Olson (DB), EJOlson Law, 100 W Broadway #990, Glendale, CA 91210
Nathan Talei (PL), Oldman, Sallus & Gold, L.L.P., 16133 Ventura Blvd., PH-A, Encino, CA 91436
Brett Wasserman (PL), Shumaker Mallory, LLP, 280 S. Beverly Dr., Ste. 505, Beverly Hills, CA 90212

☐ Service information continued on attached page

3. SERVED BY PERSONAL DELIVERY, OVERNIGHT MAIL, FACSIMILE TRANSMISSION OR EMAIL (state method for each person or entity served): Pursuant to F.R.Civ.P. 5 and/or controlling LBR, on 6/15/2023, I served the following persons and/or entities by personal delivery, overnight mail service, or (for those who consented in writing to such service method), by facsimile transmission and/or email as follows. Listing the judge here constitutes a declaration that personal delivery on, or overnight mail to, the judge will be completed no later than 24 hours after the document is filed.

Hon. Sandra Klein, 255 E. Temple Street, Suite 1582, Los Angeles, CA 90012

☐ Service information continued on attached page

I declare under penalty of perjury under the laws of the United States that the foregoing is true and correct.

6/15/2023 Baruch C. Cohen, Esq.

Date Printed Name

/s/ Baruch C. Cohen

Signature